

TITLE 8.
DEPARTMENT OF HEALTH AND SENIOR SERVICES

CHAPTER 38C.
MANAGED CARE PLANS

SUBCHAPTER 3.
BENEFITS OR COVERAGE OF SERVICE
FOR HEMOPHILIA TREATMENT

SUBCHAPTER AUTHORITY: N.J.S.A. 26:2S-10.1.

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TABLE OF CONTENTS

8:38C-3.1	Scope and applicability
8:38C-3.2	Definitions
8:38C-3.3	Carrier's obligation to provide benefits or services for the home treatment of bleeding episodes associated with hemophilia
8:38C-3.4	Loss of designated status
8:38C-3.5	Termination of the agreement for services and supplies for home treatment of bleeding episodes associated with hemophilia
8:38C-3.6	List of designated home treatment health care providers and State-recognized outpatient regional hemophilia care centers
8:38C-3.7	Clinical laboratories at State-recognized outpatient regional hemophilia care centers
8:38C-3.8	Effect of Bulletin OMC 2001-04
8:38C-3.9	Identification of hemophilia health care providers by carrier
8:38C-3.10	Violations

8:38C-3.1 Scope and applicability

(a) This subchapter shall apply to all carriers offering health benefits plans that are managed care plans, and to all such health benefits plans offered by a carrier.

(b) This subchapter applies only with respect to the provision of services for treatment of hemophilia, and does not have a direct bearing on the relationship between a carrier and a health care provider for the provision of any other services or supplies.

(c) Nothing in this subchapter shall be construed to limit the obligation of any carrier to comply with other laws regarding the provision of benefits or services for the treatment of hemophilia.

8:38C-3.2 Definitions

For the purposes of this subchapter, the words and terms set forth below shall have the following meanings, unless the context clearly indicates otherwise.

“Carrier” means an insurance company authorized to transact the business of insurance in this State and doing a health insurance business in accordance with N.J.S.A. 17B:17-1 et seq., a hospital service corporation authorized to do business pursuant to N.J.S.A. 17:48-1 et seq., a medical service corporation authorized to do business pursuant to N.J.S.A. 17:48A-1 et seq., a health service corporation authorized to do business pursuant to N.J.S.A. 17:48E-1 et seq., or a health maintenance organization authorized to do business pursuant to N.J.S.A. 26:2J-1 et seq.

“Covered person” means the natural person on whose behalf a carrier is obligated to pay benefits or provide health care services pursuant to the health benefits plan.

“Department” means the New Jersey Department of Health and Senior Services.

“Designation” or “designated” means that a health care provider has been approved by the Department to contract with carriers for the purposes of rendering service for the home treatment of bleeding episodes associated with hemophilia.

“Health benefits plan” means a policy or contract for the payment of benefits for hospital and medical expenses or the provision of hospital and medical services that is delivered or issued for delivery in this State by a carrier. The term “health benefits plan” specifically includes:

1. Medicare supplement coverage and risk contracts for the provision of health care services covered by Medicare to the extent that State regulation of such contracts or policies is not otherwise preempted by Federal law; and
2. Any other policy or contract not otherwise specifically excluded by statute or this definition.

The term “health benefits plan” specifically excludes:

1. Accident only policies;

2. Credit health policies;
3. Disability income policies;
4. Long-term care policies;
5. TRICARE/CHAMPUS coverage, and supplements thereto;
6. Hospital confinement indemnity coverage;
7. Coverage arising out of a workers' compensation law or similar such law;
8. Automobile medical payment insurance or personal injury protection insurance issued pursuant to N.J.S.A. 39:6A-1 et seq.; and
9. Coverage for medical expenses contained in a liability insurance policy.

“Health care provider” means a person licensed to deliver one or more health care services pursuant to Title 45 or Title 26 of the New Jersey Statutes, or a health care service firm as that term is defined at N.J.A.C. 13:45B-14.2.

“Managed care plan” means a health benefits plan that integrates the financing and delivery of appropriate health care services to covered persons by agreement with participating health care providers, who are selected to participate on the basis of explicit standards, to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating health care providers and procedures set forth in the plan.

“Person” means both legal and natural person except as otherwise specified.

“State-recognized outpatient regional hemophilia care center” means a health care facility participating in the Federally funded hemophilia treatment center network, as determined by the United States Department of Health and Human Services, that is located within New Jersey's geographic borders, without regard to the hemophilia treatment center's Federally designated region.

8:38C-3.3 Carrier's obligation to provide benefits or services for the home treatment of bleeding episodes associated with hemophilia

(a) Every carrier shall provide for, in its managed care plans, in-network benefits or services for the home treatment of bleeding episodes associated with hemophilia.

(b) No carrier shall arrange with any person for the provision of home treatment of bleeding episodes associated with hemophilia unless that person shall be a designated provider of such services, nor shall a carrier refer any covered person or cause a covered person to be referred to a person that is not a designated health care provider of services and supplies for the home treatment of bleeding episodes associated with hemophilia.

(c) Carriers with an aggregate enrollment of 50,000 covered persons or more in managed care plans shall arrange for the provision of home treatment of bleeding episodes associated with hemophilia with at least two designated health care providers, unless there are fewer than two designated health care providers designated in New Jersey, in which event, the carrier shall arrange for the provision of home treatment services with the lone designated health care provider, regardless of the carrier's enrollment.

(d) Carriers with aggregate enrollment of fewer than 50,000 covered persons in managed care plans shall arrange for the provision of home treatment of bleeding episodes associated with hemophilia with at least one designated health care provider.

(e) Nothing in this subchapter shall be construed to limit the obligation of a carrier to provide out-of-network benefits for home treatment services accessed at the option of the covered person through a health care provider that is not designated, when the managed care plan has an out-of-network benefits component.

(f) Nothing in this subchapter shall be construed to limit the obligation of a carrier to provide benefits or services on an in-network basis when a covered person accesses home treatment services from a health care provider, designated or not, because the carrier fails to have an agreement with a designated health care provider to provide services for the home treatment of bleeding episodes associated with hemophilia to the covered person at the time that such services are prescribed.

8:38C-3.4 Loss of designated status

(a) When a designated health care provider with which the carrier has arranged for the provision of services and supplies for the home treatment of bleeding episodes associated with hemophilia loses designation, the carrier shall not continue to refer covered persons to the services and supplies of that health care provider for home treatment of bleeding episodes associated with hemophilia.

(b) With respect to covered persons that have been receiving services and supplies from a health care provider that has lost its designation, the carrier shall continue to provide services or benefits to or on behalf of the covered person at an in-network level for home treatment services and supplies, until such time as arrangements are made for the covered person to receive home treatment services and supplies from another in-network designated health care provider, or for four months following the date of the loss of designation, whichever occurs first.

1. Notwithstanding (b) above, the carrier shall not be required to continue to provide services or benefits to a covered person at an in-network level when the health care provider's loss of designation is the result of revocation or surrender of a license, permit or registration, or is the result of a suspension of a license, permit or registration that cannot be corrected by reinstatement within 45 days following the date of the suspension, except as may be necessary for the carrier and health care provider to transition the covered person's care to another designated health care provider, consistent with N.J.A.C. 8:38C-2.11(a).

(c) Nothing in this subchapter shall be construed to necessarily require termination of the agreement between the carrier and health care provider, or otherwise affect the agreement to the

extent that it addresses the provision of services or supplies to covered persons by the health care provider, or the performance of other functions under the terms of the agreement, separate from those related to the home treatment of bleeding episodes associated with hemophilia.

(d) Nothing in this section shall be construed to require a carrier to provide more extensive benefits for covered services than that which is specified in the underlying health benefits plan.

8:38C-3.5 Termination of the agreement for services and supplies for home treatment of bleeding episodes associated with hemophilia

(a) In the event that a carrier or a designated health care provider terminate their agreement for, or which includes among its terms, the provision of services and supplies to a carrier's covered person for home treatment of bleeding episodes associated with hemophilia, the carrier shall continue to provide services or benefits to or on behalf of a covered person at an in-network level until the end of four months following the date of termination, or until arrangements are made for the covered person to obtain home treatment services and supplies from another in-network designated health care provider, whichever occurs first.

(b) The requirements of (a) above shall not apply when the agreement terminates on the basis of breach, fraud, or a determination by the carrier's medical director that the health care provider is an imminent danger to one or more covered persons, whether such breach, fraud or imminent harm is related to the provision of services or supplies for home treatment of bleeding episodes associated with hemophilia, or other services and supplies for which the carrier and health care provider have an agreement.

1. The carrier shall arrange to pay for services through another designated health care provider.

(c) Nothing in this subchapter shall be construed to limit the statutory or other regulatory obligations that may apply to an agreement between a carrier and a hospital, physician or other health care provider, pursuant to N.J.S.A. 26:2J-11.1 and 26:2S-9.1, for instance, as appropriate to the type of carrier and the type of health care provider.

(d) Nothing in this section shall be construed to require a carrier to provide more extensive benefits for covered services than that which is specified in the underlying health benefits plan.

8:38C-3.6 List of designated home treatment health care providers and State-recognized outpatient regional hemophilia care centers

(a) The Department shall maintain and make available a list of designated health care providers in accordance with N.J.A.C. 8:38C-2.13, and a list of State-recognized outpatient regional hemophilia care centers.

(b) Notwithstanding the Department's maintenance of a list of designated health care providers, nothing in this subchapter shall be construed to limit a carrier's responsibility to assure that a health care provider is designated and remains designated while providing services and supplies to covered persons for the home treatment of bleeding episodes associated with hemophilia.

(c) Nothing in this subchapter shall be construed to limit or eliminate any carrier's obligation to credential and recredential health care providers with which the carrier arranges for the provision of home treatment of hemophilia with respect to such treatments or any other services that the health care provider may render to a carrier's covered persons.

(d) The Department adopts and incorporates herein the standards and procedures used by the Department of Health and Senior Services to designate regional hemophilia treatment centers in accordance with Federal laws.

1. Information regarding the Federally funded regional hemophilia centers (and grants therefore) may be obtained by contacting the Maternal and Child Health Bureau of the Health Resources and Services Administration within the United States Department of Health and Human Services, or a list of hemophilia treatment centers by state currently is available through the Centers for Disease Control at www.cdc.gov/ncidod/dastlr/hemotology/htc_list.htm.

2. In the event that there is any discrepancy between the Department-generated list of State-recognized outpatient regional hemophilia care centers and the hemophilia treatment centers included in the United States Department of Health and Human Service's regional network(s) for the State of New Jersey, the information provided by the United States Department of Health and Human Services shall take precedence.

8:38C-3.7 Clinical laboratories at State-recognized outpatient regional hemophilia care centers

(a) When a covered person's attending physician determines that a covered person needs to use the services of a clinical laboratory at a State-recognized outpatient regional hemophilia care center because of timing or the need for closely supervised procedures in venipuncture and laboratory techniques, and the carrier does not have an agreement for the provision of services at any clinical laboratory of a State-recognized outpatient regional hemophilia care center, the carrier shall approve the use of such services at the clinical laboratory of a State-recognized outpatient regional hemophilia care center determined appropriate by the attending physician.

1. The center shall provide services or benefits to or on behalf of the covered person as if the covered person had accessed services in-network when the services are accessed in accordance with (a)1 above.

2. A refusal by a carrier or its agent to provide benefits or services as if in-network under the circumstances set forth in (a)1 above shall be considered a utilization management denial, and subject to the utilization management appeal process set forth at N.J.A.C. 8:38-8 or 8:38A-4.12, as appropriate to the type of carrier.

(b) When a covered person's attending physician determines that a covered person needs to use the services of a clinical laboratory at a State-recognized outpatient regional hemophilia care center because of timing or the need for closely supervised procedures in venipuncture and laboratory techniques, and the carrier has an agreement for the provision of services at a clinical laboratory of one or more State-recognized outpatient regional hemophilia care centers, the carrier may require use of such services at its contracted facility(ies) in order to obtain in-network benefits or provision of services at the in-network level; however, the carrier shall treat a denial to approve use of the clinical laboratory determined appropriate by the attending physician as a utilization management denial, not an administrative denial, and shall treat any appeal of the denial as a utilization management appeal in accordance with the rules at N.J.A.C. 8:38-8 or 8:38A-4.12, as appropriate to the type of carrier.

1. If the covered person is covered under a health benefits plan with out-of-network benefits, the carrier may provide services or benefits to or on behalf of the covered person as if the covered person had accessed services out-of-network.

2. If the covered person is covered under a health benefits plan without out-of-network benefits, the carrier shall pay for the laboratory services at the same rate it would pay for comparable services at the State-recognized outpatient regional hemophilia care center(s) in the carrier's network.

(c) Nothing in (a) and (b) above shall be construed to otherwise limit a covered person's rights in obtaining services or a carrier's obligations with respect to providing benefits in an emergency.

(d) Treatment by the carrier of a covered person as in-network when accessing the services of a clinical laboratory at a State-recognized outpatient hemophilia care center shall not be contingent upon the status of the attending physician as an in-or out-of-network health care provider with respect to the managed care plan covering the covered person.

(e) Nothing in this subchapter shall be construed to prevent the carrier from reviewing the services provided and making a determination as to whether the services were medically necessary.

8:38C-3.8 Effect of Bulletin OMC 2001-04

(a) Carriers that have agreements for the provision of services and supplies for home treatment of bleeding episodes associated with hemophilia with one or more persons identified in Bulletin OMC 2001-04 as acceptable health care providers of such services may continue to refer covered persons to such health care providers, and the carrier shall be considered in compliance with these rules until whichever occurs first:

1. February 5, 2005, if the health care provider does not submit an application for designation;

2. The Department makes a determination and provides written notice to the person in writing that the person does not meet the standards for designation, if the person files an application for designation in accordance with N.J.A.C. 8:38C-2.4;

3. The person loses designation pursuant to N.J.A.C. 8:38C-2.10; or

4. The carrier and person otherwise terminate their agreement, or amend one or more terms thereof, with respect to the provision of services for home treatment of bleeding episodes associated with hemophilia.

(b) In the event that a person identified in Bulletin OMC 2001-04 as an acceptable health care provider of services and supplies for the home treatment of bleeding episodes associated with hemophilia elects not to file an application for designation, or files an application but does not receive designation, the carrier shall comply with the requirements of N.J.A.C. 8:38C-3.4, as if the person had lost designation.

8:38C-3.9 Identification of hemophilia health care providers by carrier

(a) Carriers shall, by February 4, 2005, submit written identification to the Department of the person(s) with which the carrier has an agreement for the provision of services and supplies for the home treatment of bleeding episodes associated with hemophilia.

(b) Carriers shall submit the information required in (a) above by mail or by facsimile as follows:

Attn: Hemophilia Health Care Provider Identification
Office of Managed Care
NJ Department of Health and Senior Services
PO Box 360
Trenton, NJ 08625-0360
Fax: (609) 633-0660

8:38C-3.10 Violations

A carrier that violates any provisions of this subchapter shall be subject to fines and other penalties available pursuant to N.J.S.A. 26:2S-16; however, a carrier shall not be determined to be in violation of the provisions of the subchapter that require contracting with and referral to designated health care providers if there are no designated health care providers in New Jersey on the date that services for the home treatment of bleeding episodes related to hemophilia are sought by or for a covered person.